A BY-LAW OF THE CITY OF OTTAWA RESPECTING THE PROCUREMENT OF GOODS, SERVICES AND CONSTRUCTION

BY-LAW NO. 50 OF 2000

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Last amended October 2021

Amending By-laws:
2001-72
2003-373
2004-565
2006-276
2007-475
2008-332
2008-427
2010-291
2011-355
2014-443
2016-374
2017-362
2020-144
2021-26
2021-344

OTTAWA TRANSITION BOARD

BY-LAW NO. 50 OF 2000

BEING a By-law respecting the purchasing of goods, services and construction for the City of Ottawa.

The Ottawa Transition Board pursuant to the City of Ottawa Act 1999, and Regulation 540/00 made thereunder enacts as follows:

SHORT TITLE

1. This By-law may be cited as the "Procurement By-law". (2017-362)

PURPOSE

2. (1) The objective of this By-law respecting procurement is to obtain best value when purchasing goods, construction and services for the City while treating all suppliers equitably.

(2) The guiding procurement principle is that purchases be made using a competitive process that is open, transparent and fair to all suppliers.

(3) These objectives and principles are reflected in this By-law.

DEFINITIONS

3. (1) In this by-law,

"Amendment" means an increase to an existing contract related to a change in scope that is unanticipated; (2007-475)

"Award" means authorization to proceed with the purchase of goods, services and construction from a chosen supplier;

"Best Value" means the optimal balance of performance, sustainability and cost determined in accordance with a pre-defined evaluation plan;

"Bid" means an offer or submission from a supplier in response to a bid solicitation;

"Bid Solicitation" means a formal request for bids that may be in the form of a Request for Quotation, Request for Qualifications, Request for Tender, Request for Proposal or Request for Standing Offer;

“Business Model Required Outsourcing” means a business model in which a Branch outsources all or a percentage of the professional services it provides; (2007-475)

“Chief Procurement Officer” means the senior official in Supply Services of the City; (2010-291)

“City” means the City of Ottawa;

“Construction” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional services related to the construction contract unless they are included in the procurement;

“Consulting Services” means assistance to management, including but not limited to the areas of strategic analysis, organizational design, change management, policy development, feasibility studies and other services intended to assist decision making within the organization; (2007-475)

“Contract” means a binding agreement by way of a Purchase Order or Purchase Order incorporating a formal agreement or a formal agreement between two or more parties that creates an obligation to do or not to do a particular thing;

"Council" means the Council of the City of Ottawa;

“Council approved estimates” and “Council approved branch estimates” means Council approved branch budget including authorized revisions;

“Department” means an organizational unit headed by a General Manager; (2010-291, 2017-362)

“Director” means the person appointed by the City Manager or General Manager to be responsible for the operation of a Service Area and includes the person appointed to the position of City Solicitor, Deputy City Treasurer, Chief Information Officer, Chief Procurement Officer, Chief Safety Officer, Fire Chief, and Chief Ottawa Paramedic Services; (2017-362, 2021-26)

“Disposal” means the removal of material from the City by sale, trade-in,

alternative use or destruction;

“Departmental Purchase Order" means a written offer to purchase goods, services and construction or a written acceptance of an offer received in accordance with this by-law where the estimated value is $15,000 or less; (2014-443)

“Electronic Tendering” means the use of a computer-based system directly accessible by suppliers irrespective of their location that provides them with information related to bid solicitations;

“Employee-Employer Relationship” means a relationship that exists where persons for pay or other consideration enter into the service of others and devote their personal labour for any given period and the other person has the power or right to control or direct the person in the material details of how the work is to be performed;

“Fair Market Value” means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length who are fully informed and not under any compulsion to transact;

“Goods” means moveable property including,

(a) the costs of installing, operating, maintaining or manufacturing such moveable property, and

(b) raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a construction contract;

“Follow-On Contract” includes situations where the City, in the original contract or bid solicitation document, has communicated the potential for the award of subsequent phases of a project to the successful service provider and fees for any follow-on contract are to be based on the same unit or per diem rates proposed under the original contract or bid; (2007-475)

“Formal complaint” means a written complaint following a mandatory bidder debriefing by City staff addressed to the Chief Procurement Officer containing the identity of the complainant and the procurement process at issue as well as a clear and detailed statement of the legal and/or factual grounds upon which the complaint is based subject to the proviso that the objection is not precluded by legislation or applicable trade agreements; (2010-291)

“General Manager” means the person appointed by the City Manager to

be responsible for the operation of a Department and includes the person appointed to the position of City Manager, Chief Financial Officer, City Clerk, Medical Officer of Health, and Auditor General; (2017-362, 2021-26)

“Highest Technical Bid” means the bid that would provide the City with the best product or service as measured by the evaluation criteria;

“Holdback” means an amount withheld under the terms of the contract to ensure the complete performance of the contract and to avoid overpayment in relation to progress of work;

“Local supplier” means a supplier that has a place of business in Ottawa, Ontario; (2010-291)

“Lowest Responsive Bid” means the bid that would provide the City with the desired goods, services and construction at the lowest cost, meets all the specifications and contains no major irregularity or qualifications;

“Professional Services” means services requiring the skills of professionals for a defined service requirement or for a specific project related deliverable including but not limited to the areas of engineering, architecture, design, planning, information technology, financial auditing and fairness commissioners; (2007-475)

“Progress Payment” means a payment made under the terms of a contract after the performance of the part of the contract in respect of which payment is made but before the performance of the whole contract;

“Purchase” means to acquire goods, services or construction by purchase, rental, lease or trade;

“Purchase Order” means a written offer to a supplier formally stating all terms and conditions for the purchase of goods, services or construction or a written acceptance of an offer received in accordance with this by-law;

“Quote” means a bid submitted in response to a Request for Quotation;

“Security Deposit” means a deposit of securities by a supplier that the City may convert under defined conditions to complete the supplier’s contractual obligation;

“Special Circumstance” means

(a) an event that is exceptional or could not be foreseen and is a threat to the health, safety or welfare of the public, or

(b) an event that could cause loss or damage to public or other property, or

(c) an event that has disrupted essential services that need to be re-established without delay;

"Standing Offer" means an offer from a supplier that allows the City to purchase frequently ordered goods, services or construction from suppliers at prearranged prices, under set terms and conditions, when and if these are requested but no contract exists until the City places an order against the Standing Offer;

"Supply Services" means the Chief Procurement Officer and his or her designated staff responsible for performing the procurement services of the City; (2014-443, 2017-362) and,

"Tender" means a written detailed offer where the estimated value exceeds $100,000 from a supplier to supply goods, services, or construction. (2014-443)

"Vendor Performance Management Score" means a rated score given to City vendors and recorded on a web-based platform which documents a vendor's past performance on City contracts. (2020-144)

(2) To establish the definition of any other procurement term not herein included, reference shall be made to the latest edition of the NIGP – the Institute for Public Procurement's Dictionary of Procurement Terms. (2017-362)

(3) Schedule "A" attached hereto forms a part of this By-law.

GENERAL PROCUREMENT POLICY

APPLICATION

4. The procedures prescribed in this by-law shall be followed to make a contract award or to make a recommendation of a contract award to Council.

RESPONSIBILITIES AND AUTHORITIES

5. (1) Directors have responsibility for procurement activities within their service areas and branches and are accountable for achieving the specific objectives of the procurement project. (2017-362)

(2) Directors have the authority to award contracts in the circumstances specified in this by-law provided that the delegated power is exercised within the limits prescribed in this by-law, and the requirements of this by-law are met.

(3) Directors in conjunction with Supply Services shall provide evidence that the contract pricing represents fair market value.

(4) Supply Services is responsible for,
- (a) providing professional procurement advice and services to Directors,
- (b) monitoring compliance with this by-law,
- (c) notifying Directors, in advance if possible, of non-compliance, and
- (d) informing Council that non-compliance with this by-law has occurred.

(5) Supply Services has the authority to reject the proposed action of a Director for those actions specified in this by-law requiring a joint “Director and Supply Services” decision.

(6) For awards of competitive contracts:
- (a) made to the Lowest Responsive Bidder,
- (b) made on the basis of Best Value of a value of $500,000 or less,
- (c) and for awards of non-competitive contracts of a value of $100,000 or less,

Supply Services may award a contract on behalf of a Director provided that Supply Services is in receipt of a funded requisition and the requirements of this by-law are met. (2014-443, 2017-362)

(7) The City Manager has the authority to instruct Directors not to award contracts and to submit recommendations to Council for approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interest of the City.

(8) Where authority is delegated to a specific staff member in this by-law, the authority may be further delegated to staff members within the applicable department as outlined in the City's organizational chart, or to Supply Services, provided that such delegation is authorized in writing and does not exceed the authority delegated by this by-law to the authorized person. Sub-delegation of authority will be limited to two reporting levels below the authorized person and cannot be further delegated. (2017-362)

REQUIREMENT FOR APPROVED FUNDS

6. (1) The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within Council approved estimates.

(2) Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:

(a) the identification and availability of sufficient funds in appropriate accounts for the current year within Council approved estimates,

(b) the requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Chief Financial Officer, the required funding can reasonably be expected to be made available, (2004-565, 2021-26) and

(c) the contract has a provision in it that the supply of goods or services in subsequent years is subject to the approval by Council of the branch estimates to meet the proposed expenditures.

(3) Supply Services shall reject all purchase requests for contracts for which sufficient funds are not available and identified unless, in the opinion of Supply Services, the deficiency is minimal and alternative funding has been identified.

RESTRICTIONS

7. (1) No requirement may be divided into two or more parts to avoid the application of the provisions of this by-law.

(2) A Director shall not award a contract where Supply Services has determined that the provisions of this by-law have not been adhered to and has so advised the Director.

(3) Supply Services shall,

(a) reject all purchase requisitions for services where the services could result in the establishment of an employee - employer relationship,

(b) with the Director, determine whether the requirement referred to in Clause 7(3)(a) can be revised, or the requirement should be forwarded to Human Resources Services for action. (2010-291, 2017-362)

TOTAL PROJECT COST

8. Where this by-law prescribes financial limits on contracts that may be awarded on the authority of a Director, or provides for financial limits on contracts required to be reported to Council, for the purpose of determining whether a contract falls within these prescribed limits, the contract amount shall be the sum of all costs to be paid to the supplier under the contract, excluding taxes. (2021-26)

PRESCRIBED COUNCIL APPROVAL

9. (1) Despite any other provision of this by-law, the following contracts are subject to Council approval:

(a) any contract requiring approval from the Ontario Municipal Board,

(b) any contract prescribed by Statute to be made by Council,

(c) where the cost amount proposed for acceptance is higher than the Council approved branch estimates and the necessary adjustments cannot be made,

(d) where the revenue amount proposed for acceptance is lower than the Council approved branch estimates,

(e) where a major irregularity precludes the award of a tender to the supplier submitting the lowest responsive bid, (2010-291)

(f) where authority to approve has not been expressly delegated, (2010-291) and,

(g) where a contract is a result of a public private partnership (“P3”) opportunity. (2010-291)

(2) No provision of the by-law precludes a Director or Supply Services from submitting an award to Council where:

(a) in the opinion of a Director, it is in the best interest of the City to do so, or

(b) it is a matter of procurement procedure and, in the opinion of Supply Services, it is in the best interest of the City to do so.

TRADE AGREEMENTS

10. (1) Procurement by the City may be subject to the provisions of trade agreements.

(2) Where an applicable trade agreement is in conflict with this By-law, the trade agreement shall take precedence.

(3) Supply Services shall advise Directors where a procurement action may not conform to an applicable trade agreement as early as possible in the procurement process.

NOTIFICATION OF PROCUREMENT OPPORTUNITIES

11. (1) Notification of procurement opportunities exceeding $50,000 for goods, services and construction and $50,000 for professional services shall be made by open electronic tendering means. (2006-276)

(2) Notification of procurement opportunities by means of open electronic tendering may be complemented by other means where appropriate.

(3) Notifications of procurement opportunities below the thresholds stated in subsection 11(1) may be made by means of open electronic tendering.

(4) If means other than electronic tendering is used for notification of procurement opportunities, consideration shall be given to ensuring wide dissemination and equal opportunity for suppliers.

(5) Source lists may be maintained on an exception basis for specific goods, services and construction if open electronic tendering or other notification means will not notify the specific supplier community of the opportunity.

PROCUREMENT DOCUMENTATION

12. (1) In order to maintain consistency, Supply Services shall provide instructions to Directors on procurement policies and procedures and on the structure, format and general content of procurement documentation.

(2) Supply Services shall review proposed procurement documentation to ensure clarity, reasonableness and quality and shall advise the Director of suggested improvements.

(3) Procurement documentation shall avoid use of specific products or brand names.

(4) The use of standards in procurement documentation that have been certified, evaluated, qualified, registered or verified by independent nationally recognized and industry-supported organizations such as the Standards Council of Canada shall be preferred.

(5) Notwithstanding Subsection 12(3), a Director may specify a specific product or brand name for essential functionality purposes to avoid unacceptable risk or for some other valid purpose. In such instances, the Director and Supply Services shall manage the procurement to achieve a competitive situation if possible.

(6) Directors shall:
   (a) give consideration to the need for value analysis comparisons of options or choices, and
   (b) ensure that adequate value analyses comparisons are conducted to provide assurance that the specification will provide best value. (2020-144)

(7) Supply Services shall issue and maintain guidelines for the documentation and content of terms of reference and general scopes of work.

(8) All substantive changes to standard clauses in bid solicitations and contracts shall be reviewed and approved by the City Solicitor or the Chief Procurement Officer. (2004-565, 2021-26)

LEGAL SERVICES

13. (1) The procurement of legal services is exempt from a competitive process and from the use of Purchase Orders, if made in accordance with the delegation of authority to the City Solicitor. (2004-565, 2021-26)

(2) The City Solicitor shall annually report to Council on the use of external legal services in conjunction with the reporting requirement prescribed in subsection 39(2). (2006-276, 2021-26)

CANCELLATION OF A BID SOLICITATION

14. (1) A Director, with the concurrence of Supply Services, may request Supply Services to cancel a bid solicitation at any time up to contract award.

(2) The Director and Supply Services shall ensure that the confidentiality of any bid submitted is maintained in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

GENERAL PROCUREMENT PROCEDURES

GENERAL

15. (1) The following are authorized procedures for the procurement of goods, services, and construction:

Procedure	Project Cost
Petty Cash	Subject to Finance Services Department Policies and Procedures
Purchasing Card/Departmental Purchase Order/Imprest Fund	$15,000 or less
Request for Quotation	$100,000 or less
Request for Tender	Greater than $100,000
Request for Proposal	Greater than $100,000
Request for Standing Offer	Any cost
Non-Competitive Purchase	Any cost

(2014-443, 2021-26)

(2) The procedures are more fully described in Sections 16 to 22 inclusive. (2006-276)

(3) Request for Quotation and Request for Tender procedures shall be used where a requirement can be fully defined and best value for the City can be achieved by an award selection made on the basis of the lowest responsive bid.

(4) Services, for which the requirement can be described in specific terms, minimum qualifications clearly defined, and best value achieved by selecting the lowest responsive bidder, shall be procured by the Request for Quotation or Request for Tender procedure.

(5) The consideration of Vendor Performance Management Scores in the determination of Lowest Responsive Bid is permitted in Request for Quotation or Request for Tender procedures, where identified in the solicitation document. (2020-144)

(6) The Request for Proposal procedure shall be used,
   (a) where to achieve best value, the award selection will be made on an evaluated dollar per point or other scheme involving a combination of mandatory and desirable requirements,
   (b) where the requirement is best described in a general performance specification, and
   (c) where innovative solutions are sought.

(7) Services, for which the requirement is best described by a combination of mandatory and desirable elements and where best value is achieved by an evaluation in accordance with pre-defined criteria, shall be purchased by a Request for Proposal.

(8) A Director shall provide specific Terms of Reference for services for contracts of an estimated value greater than $15,000. (2014-443)

(9) The terms of reference shall be to the satisfaction of Supply Services.

(10) A general scope established by the Director that describes requirements in less detail than for a terms of reference, is sufficient for contracts of an estimated value of $15,000 or less. (2014-443)

(11) Supply Services shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation scheme using a Request for Proposal that includes factors such as qualifications and experience, strategy, approach, methodology, scheduling, and past performance, facilities and equipment.

(12) Directors shall identify appropriate criteria from the list maintained by Supply Services for use in a Request for Proposal but are not limited to criteria from the list.

(13) Where a requirement has corporate-wide application or applies to two or more Departments, one Director shall, (2010-291)
   (a) manage the procurement keeping other effected Directors informed, and
   (b) be accountable for the authorization of the procurement.

16. [REPEALED – 2014-443]

PURCHASES NOT EXCEEDING $15,000 (2014-443)

17. (1) The procedure used to purchase goods, services, or construction not exceeding $15,000 in value shall demonstrate that fair market value was achieved.

(2) The procedure used to make purchases exceeding $2,500 in value shall include evidence that the Director obtained a minimum of three verbal or written quotes unless subsection 17(3) applies.

(3) The Director may directly select a supplier to provide professional services without obtaining quotes where the total cost of the professional services does not exceed $15,000 in value.

(4) For purchases not exceeding $15,000 in value, the Director may delegate his or her authority to a designate provided the designate follows the requirements of this by-law.

(5) Purchases of goods, services, and construction not exceeding $15,000 in value incurred in the general administration of a Department for which the requirements of subsections (1) to (4) have been met may be made using:
(a) a properly authorized procurement card;
(b) a properly authorized Departmental purchase order; or
(c) a properly authorized petty cash or imprest fund.
(2014-443)

PURCHASES NOT EXCEEDING $100,000 (2006-276, 2014-443, 2017-363)

18. (1) Subject to subsection 18(2), requirements estimated at $100,000 or less, shall be handled by the Request for Quotation procedure, however there may be requirements estimated at $100,000 (2014-443) or less where it will be more appropriate to solicit bids using a Request for Tender or a Request for Proposal. (2014-443)

(2) The Request for Quotation is a bid solicitation where written quotes are obtained from suppliers without formal advertising or receipt of sealed bids.

(3) The Director shall furnish to Supply Services a purchase requisition or written request containing the relevant specifications, terms and conditions for the purchase of goods, services or construction.

(4) Supply Services shall:
(a) review the specifications, terms and conditions relevant to the acquisition of goods, services or construction,
(b) suggest changes or provide other information to the Director as

appropriate,

(c) give notice of the Request for Quotation:
    (i) by using the electronic tendering system,
    (ii) by requesting submissions from those suppliers contained in a list of vendors maintained by Supply who appear best qualified to meet the provisions of the quotation, or
    (iii) by any combination thereof which will result in appropriate notice being given of the Request for Quotation,
(d) review the bids to ensure compliance with the related procedures and established terms or conditions, and
(e) consider any irregularities and act in accordance with Section 30 of this by-law.

(5) Directors or Supply Services on behalf of the concerned Director may award contracts emanating from a Request for Quotation not exceeding $100,000 provided that:
(a) sufficient funds are available and identified in appropriate accounts within Council approved departmental estimates including authorized revisions,
(b) the award is to the lowest responsive bidder,
(c) Supply Services is in receipt of a funded requisition, and
(d) the provisions of this by-law are followed. (2014-443)

(6) Where the authority referred to in Subsection 18(5) is exercised, written documentation respecting the award of the contract is to be kept on the procurement file.

(7) The purchase of goods, services or construction referred in Subsection 18(1) shall be made through the issue of a Purchase Order by Supply Services. (2006-276)

PURCHASES EXCEEDING $100,000 - REQUEST FOR TENDER (2006-276, 2014-443, 2017-362)

19. (1) A Request for Tender shall be used for purchases exceeding $100,000 where all of the following criteria apply: (2006-276, 2014-443)
(a) two or more sources are considered capable of supplying the requirement,
(b) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria,
(c) the market conditions are such that tenders can be submitted on a common pricing basis, and
(d) it is intended to accept the lowest-priced responsive tender without negotiations.

(2) The Director shall provide to Supply Services a purchase requisition

containing the relevant specifications, terms and conditions for the acquisition of goods, services and construction.

(3) For road and sewer construction contracts, the Director shall establish the specifications and be responsible for the contents of the Request for Tender.

(4) Supply Services shall follow the procedure prescribed in Subsection 18(4) for a Request for Tender with the following modifications:
   (a) the term “a Request for Tender” will replace the term “a Request for Quotation”,
   (b) electronic tendering shall be used for notification, complemented, if appropriate, by other means, and
   (c) sealed tenders with a public opening shall be required.

(5) Supply Services shall forward to the appropriate Director a summary of the procurement and recommend the award of contract to the lowest responsive bidder. (2017-362)

(6) Directors or Supply Services on behalf of the concerned Director may award contracts emanating from a Request for Tender provided that (2014-443, 2017-362):
   (a) the award is to the lowest responsive bidder,
   (b) sufficient funds are available and identified in appropriate accounts within Council approved Departmental estimates including authorized revisions, (2014-443)
   (c) Supply Services is in receipt of a funded requisition, and
   (d) the provisions of this by-law are followed.

(7) Where the authority referred to in subsection 19(6) is exercised, written notification respecting the award of the contract is to be kept on the procurement file.

(8) The Director shall follow the provisions of Section 31 regarding the award of contract using an agreement or Purchase Order.

(9) The use of a standing offer, as defined in Section 21, shall also be an acceptable procurement process, where appropriate, for purchases exceeding $100,000. (2014-443)

PURCHASES EXCEEDING $100,000 - REQUEST FOR PROPOSAL (2006-276, 2014-443)

20. (1) A Request for Proposal should be used where one or more of the criteria for issuing a Request for Tender cannot be met, such as:
   (a) owing to the nature of the requirement, suppliers are invited to

propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone, or

(b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.

(2) The Director shall provide Supply Services with a purchase requisition, submitted.

(3) [REPEALED – 2021-26]

(4) Supply Services shall issue a Request for Proposal in the same manner as for a Request for Tender as set out in Subsection 19(4), excluding the requirement for a public opening, if the estimated value is greater than $100,000. The use of a Standing Offer, as defined in Section 21, shall also be an acceptable procurement process, where appropriate, for purchases exceeding $100,000. (2014-443)

(5) Where the requirement is not straightforward or an excessive workload would be required to evaluate proposals, either due to their complexity, length, number or any combination thereof, a multi-step procedure may be used that would include a pre-qualification stage to ensure the workload is a manageable level.

(6) A Selection Committee, composed of a minimum of one representative from the Branch and a representative from Supply Services, shall review all proposals against the established criteria and reach consensus on the final rating results and ensure that the final rating results with supporting documents are kept on the procurement file.

(7) Supply Services shall forward to the Director a summary of the procurement and recommend award of contract to the supplier meeting all mandatory requirements and providing best value as stipulated in the Request for Proposal.

(8) The Director or Supply Services on behalf of the concerned Director may award a contract of $500,000 or less emanating from a Request for Proposal provided that (2014-443):

(a) sufficient funds are available and identified in appropriate accounts within Council approved branch estimates including authorized revisions,

(b) the award is made to the supplier meeting all mandatory requirements and providing best value as stipulated in the Request for Proposal,
(c) Supply Services is in receipt of a funded requisition, and
(d) the provisions of this by-law are followed.

(9) Where the authority referred to in Subsection 20(8) is exercised, written notification respecting the award of the contract is to be kept on the procurement file.

(10) Awards emanating from a Request for Proposal require General Manager approval where greater than $500,000. (2014-443, 2017-362)

(11) The Director shall follow the provisions of Section 31 regarding the award of contract using an agreement or Purchase Order.

(12) Supply Services shall determine the most appropriate cost weighting assignment in specific Request for Proposal calls in accordance with, but not limited to, the following criteria:
(a) twenty percent (20%) of the evaluation criteria for more complex or high risk assignments;
(b) fifty percent (50%) cost weighting (cost per point) in the evaluation for medium risk assignments; or
(c) lowest cost compliant proposal where a prequalification, a technical pass grade or a standing offer is in place. (2008-427)

STANDING OFFER PURCHASES

21. (1) A Request for Standing Offer may be used where:
(a) one or more clients repetitively order the same goods or services and the actual demand is not known in advance, or
(b) a need is anticipated for a range of goods, services and construction for a specific purpose, but the actual demand is not known at the outset, and delivery is to be made when a requirement arises.

(2) Supply Services shall establish and maintain Standing Offers that define source and price with selected suppliers for all frequently used goods or services.

(3) To establish prices and select sources, Supply Services shall employ the provisions contained in this by-law for the acquisition of goods, services and construction.

(4) More than one supplier may be selected where it is in the best interests of the City and the bid solicitation allows for more than one.

(a) In circumstances where competition results in a large number of offers from vendors, which offers exceed the needs of the City, Supply Services is authorized to approach the highest ranked vendors to negotiate lower unit rates for the goods or services in return for a reduction in the number of firms authorized to provide the goods or services or the offer of a firm contractual commitment by the City. (2008-427)

(5) Where purchasing action is initiated by a Department for frequently used goods or services for which a standing offer is in place and the value of the purchasing action exceeds $2,500, it is to be made with the supplier or suppliers listed in the Standing Offer. (2006-276, 2010-291, 2014-443)

(6) In a Request for Standing Offer, the expected quantity of the specified goods or services to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the extent possible, on previous usage adjusted for any known factors that may change usage.

(7) A call-up against a standing offer is considered to be an individual contract, and the normal contract award prescribed limits apply, unless otherwise stated in the original approval document.

(8) Despite subsection (7) and Section 17, City staff, as designated by the Chief Procurement Officer, may issue call-ups to a maximum of $150,000 from a standing offer provided that the purchase is properly authorized by the Director, is consistent with the intent, terms, specifications and conditions of the standing offer and all other requirements of this by-law are complied with. (2003-373, 2004-565, 2014-443, 2017-362)

(9) A call-up against a standing offer may be made in an amount to a maximum of $150,000 and exceptions to this maximum amount may be made by Supply Services, where it is of the opinion that there is a financial advantage to be achieved by the City.

(10) All standing offers for Professional Services shall include wording that the hourly, per diem or other unit rates offered by the proponent will apply for call ups up to a maximum of $100,000 and for call-ups greater than $100,000, the hourly, per diem or other unit rates will be discounted by a minimum of five percent (5%). (2008-427)

NON-COMPETITIVE PURCHASES

22. (1) The requirement for competitive bid solicitation for goods, services and construction may be waived under joint authority of the appropriate

Director and Supply Services and replaced with negotiations by the Director and Supply Services under the following circumstances:

(a) where competition is precluded due to the application of any Act or legislation or because of the existence of patent rights, copyrights, technical secrets or controls of raw material,
(b) where due to abnormal market conditions, the goods, services or construction required are in short supply,
(c) where only one source of supply would be acceptable and cost effective,
(d) where there is an absence of competition for technical or other reasons and the goods, services or construction can only be supplied by a particular supplier and no alternative exists,
(e) where the nature of the requirement is such that it would not be in the public interest to solicit competitive bids as in the case of security or confidentiality matters,
(f) where in the event of a *"Special Circumstance"* as defined by this By-law, a requirement exists,
(g) where the possibility of a follow-on contract was identified in the original bid solicitation,
(h) where the total estimated project cost for professional services does not exceed $50,000, (2001-72)
(i) where the requirement is for a utility for which there exists a monopoly,
(j) where additional deliveries by the original supplier of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:
    (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and
    (ii) would cause significant inconvenience or substantial duplication of costs. (2021-26)
(k) for goods and services, where the supplier is a social enterprise owned by a non-profit organization or registered charity. (2021-344)

(2) When a Director intends to select a supplier to provide goods, services or construction pursuant to subsection 22(1), Supply Services is to be advised in writing of the compelling rationale that warrants a non-competitive selection for approval.

(3) The supplier in whom the Director and Supply Services have the greatest confidence to fulfill the requirement and provides for fair market value shall be selected.

(4) The Director and Supply Services may jointly award a contract emanating from negotiations, including that for which no competitive bids were solicited, provided that:

(a) the funds are available in appropriate accounts within the Departmental estimates approved by Council including authorized revisions to meet the proposed expenditure, (2014-443)
(b) the amount of the contract does not exceed $100,000 except in the case of utilities for which there exists a monopoly, and
(c) the Director and Supply Services are both satisfied the contract represents fair market value.

(5) Non-competitive awards require General Manager and Supply Services approval where greater than $100,000. (2004-565, 2017-362)

(6) The Director shall follow the provisions of Section 31 regarding the use of an agreement or Purchase Order.

(7) Any non-competitive contract that does not satisfy the provisions of subsection (1) is subject to the City Manager's approval.

(8) Despite any other provision of this by-law, the Director Infrastructure Services (2010-291, 2017-362) and Supply Services may jointly award a contract for which no competitive bids were solicited provided that,

(a) the contract is to complete outstanding works in approved plans of subdivision or site plans, and
(b) the City holds sufficient funds as security to complete the works or the subdivision or site plan agreement contains provisions to recover the costs from the developer.

(9) The relevant details surrounding the application of subsections (1) and (8) shall be included in the report submitted to Council pursuant to Section 39. (2006-276)

SPECIAL CIRCUMSTANCE PURCHASES

23. (1) When a Director is of the opinion that a "special circumstance" to warrant a non-competitive purchase pursuant to Clause 22(1)(f) exists, the Director may authorize the purchase of such goods, services and construction as is considered necessary to remedy the situation without regard to the requirement for a bid solicitation and may award the necessary contract provided that the contract does not exceed $100,000.

(2) Where the extent or the severity of the "*Special Circumstance*" to warrant a sole source purchase pursuant to clause 22(1)(f) is such that the expenditure is likely to be in excess of $100,000, the General Manager may award the necessary contracts for the purchase of such goods, services and construction as is considered necessary to remedy the situation without regard to the requirement for a bid solicitation provided

that the City Manager is satisfied that adequate funds may be appropriated from accounts within the Council approved estimates. (2004-565)

(3) The relevant details surrounding the application of subsection 23(1) and (2) shall be included in the report submitted to Council pursuant to Section 39.

FOLLOW-ON NON-COMPETITIVE CONTRACTS

24. (1) Where a reasonable likelihood exists that, on completion of a Contract, it will be necessary to award a follow-on Contract for goods or services to the existing supplier, Supply Services shall ensure that the possibility of a follow-on Contract will be identified in the original bid solicitation. (2008-427)

(2) All requests for Proposal documents for Professional Services shall include wording that the hourly, per diem or other unit rates offered by the proponent will apply for the initial Contract award and that for a follow-on Contract, the hourly per diem or other unit rates will be discounted by minimum of five percent (5%). (2008-427)

UNSOLICITED PROPOSALS

25. (1) Unsolicited Proposals received by the City shall be reviewed by the Director and Supply Services.

(2) Any procurement activity resulting from the receipt of an Unsolicited Proposal shall comply with the provisions of this by-law and the separate Ottawa Option Policy for Unsolicited Proposals as approved by City Council on October 23, 2002. (2006-276)

(3) A contract resulting from an Unsolicited Proposal shall be awarded on a non-competitive basis only when the procurement complies with the requirements of a non-competitive procurement.

CONTRACT WITHOUT BUDGETARY APPROPRIATION

26. Where a requirement exists to initiate a project for which goods, services or construction are required and funds are not contained in appropriate accounts within the Council approved branch estimates to meet the proposed expenditure, the Director shall, prior to the commencement of the purchasing process, submit a report to Council containing:

(a) information surrounding the requirement to contract,
(b) the terms of reference to be provided in the contract, and

(c) information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes or on the requirement for additional funds.

BID AND CONTRACT ADMINISTRATION

27. Bids shall only be accepted in paper form, ensuring confidentiality and security including maintaining the "sealed" nature of bids as long as necessary where required. Bids will only be accepted by facsimile or electronic form when so stipulated in the procurement solicitation document, and subject to Supply Services having in place appropriate arrangements for receipt thereof. (2006-276)

NO ACCEPTABLE BID OR EQUAL BIDS RECEIVED

28. (1) Where bids are received in response to a bid solicitation but exceed budget, are not responsive to the requirement or do not represent fair market value, a revised solicitation shall be issued in an effort to obtain an acceptable bid unless subsection 28 (2) applies.

(2) The Director and Supply Services jointly may waive the need for a revised bid solicitation and enter negotiations with the lowest responsive bidder or the highest responsive bidder for a revenue-driven bid selection emanating from a bid solicitation under the following circumstances:

(a) the total cost of the lowest responsive bid is in excess of the funds appropriated by Council for the project or the Departmental highest responsive bid revenue is less than that made in appropriate accounts in the Council approved Departmental estimates, (2014-443) and

(b) the Director and Supply Services agree that the changes required to achieve an acceptable bid will not change the general nature of the requirement described in the bid solicitation.

(3) The method of negotiation shall be those accepted as standard negotiating procedures that employ ethical practices.

(4) In the case of building construction contracts, where the total cost of the lowest responsive bid is in excess of the appropriation made by Council, negotiations shall be made in accordance with the guidelines established by the Canadian Construction Documents Committee.

(5) If two equal bids are received, a means of breaking the tie consistent with the provisions of the solicitation shall be employed.

(6) Factors to be considered in breaking the tie include:

(a) prompt payment discount,

(b) when delivery is an important factor, the bidder offering the best delivery date be given preference,
(c) a bidder in a position to better after sales service, with a good record in this regard, be given preference,
(d) a bidder with an overall satisfactory performance record be given preference over a bidder known to have an unsatisfactory performance record,
(e) a local bidder be given preference over a non-local bidder. (2010-291)

GUARANTEES OF CONTRACT EXECUTION AND PERFORMANCE

29. (1) The Director and Supply Services may require that a bid be accompanied by a Bid Bond or other similar security to guarantee entry into a contract.

(2) In addition to the security referred to in Subsection 29(1), the successful supplier may be required to provide,
(a) a Performance Bond to guarantee the faithful performance of the contract, and
(b) a Payment Bond to guarantee the payment for labour and materials to be supplied in connection with the contract.

(3) The Director and Supply Services shall select the appropriate means to guarantee execution and performance of the contract. Means may include one or more of, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and holdbacks.

(4) Prior to commencement of work and where deemed appropriate, evidence of Liability Insurance Coverage satisfactory to the Chief Procurement Officer must be obtained, ensuring indemnification of the City of Ottawa from any and all claims, demands, losses, costs or damages resulting from the performance of a supplier's obligations under the contract. (2004-565, 2017-362)

(5) Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Board to date.

(6) The Director and Supply Services shall ensure that the guarantee means selected will:
(a) not be excessive but sufficient to cover financial risks to the City,
(b) provide flexibility in applying leverage on a supplier so that the penalty is proportional to the deficiencies, and
(c) comply with provincial statutes and regulations.

(7) Financial bonds for contract performance shall only be required where the City will be exposed to costs if the contractor does not complete the requirements of the contract.

(8) If the risk to the City is not adequately limited by the progress payment provisions of the contract, a minimum payment holdback of 10% shall be mandatory on all contracts exceeding $25,000.

(9) Supply Services may release the holdback funds on construction contracts upon:
   (a) the contractor submitting a statutory declaration that all accounts have been paid and that all documents have been received for all damage claims,
   (b) receipt of clearance from the Workplace Safety and Insurance Board for any arrears of Workplace Safety and Insurance Board assessment,
   (c) all the requirements of the Construction Liens Act being satisfied,
   (d) receipt of certification from the City Solicitor, where applicable, that liens have not been registered, (2004-565, 2021-26) and
   (e) certification from the Director, under whom the work has been performed, that the conditions of the contract have been satisfied.

(10) The conditions for release of holdback funds provided in subsection 29(9) apply to other goods or services contracts with necessary modifications.

IRREGULARITIES CONTAINED IN BIDS

30. (1) The process for administering irregularities contained in bids pertaining to all contracts shall be as set out in Schedule “A”.

(2) For an irregularity listed in the first column of Schedule “A”, the response applicable to it is set out opposite to it in the second column.

CONTRACTUAL AGREEMENT

31. (1) The award of contract may be made by way of an agreement, or as a Purchase Order.

(2) A Purchase Order is to be used when the resulting contract is straightforward and will contain the City’s standard terms and conditions.

(3) A formal agreement is to be used when the resulting contract is complex and will contain terms and conditions other than the City’s standard terms and conditions

(4) It shall be the responsibility of the Director with Supply Services and/or the City Solicitor to determine if it is in the best interest of the City to establish a formal agreement with the supplier. (2004-565, 2021-26)

(5) Where it is determined that Subsection 31(4) is to apply, the formal agreement shall be reviewed and approved for execution by the City Solicitor (2004-565) or the Chief Procurement Officer. (2016-374, 2021-26)

(6) Where a formal agreement is required, as a result of the award of a contract by delegated authority, the Director shall execute the agreement in the name of The City of Ottawa.

(7) Where a formal agreement is issued, Supply Services shall issue a Purchase Order incorporating the formal agreement.

(8) Where a formal agreement is not required, Supply Services shall issue a Purchase Order incorporating the terms and conditions relevant to the award of contract.

EXERCISE OF CONTRACT RENEWAL OPTIONS

32. (1) Where a contract contains an option for renewal, the Director may authorize Supply Services to exercise such option provided that:
   (a) the supplier's performance in supplying the goods, services or construction is considered to have met the requirements of the contract, and
   (b) the Director and Supply Services agree that the exercise of the option is in the best interest of the City, and
   (c) funds are available in appropriate accounts within the Council approved estimates including authorized revisions to meet the proposed expenditure.

(2) Where a Contract contains no option for renewal, Supply Services is delegated the authority to extend the Contract for a period of time no greater than two years from the date of expiration provided that:
   (a) Supply Services and the Director agree that based on market conditions or an analysis of future conditions cost savings or cost avoidance can be obtained by a renewal; and
   (b) the supplier’s performance and vendor relations with the supplier have both exceeded the requirements of the Contract.

(3) The authorization of the Director pursuant to subsections (1) or (2) shall include a written explanation of why the renewal is in the best interest of the City and shall include comments on the market situation and trends.

(4) Inflationary increases for Contract renewal shall be limited to fifty percent (50%) of the Statistics Canada annual Consumer Price Index unless, the supplier can demonstrate, to the satisfaction of Supply Services, that the supplier's costs have increased significantly from the original Contract price and the supplier's cost increases can be independently verified by the City. (2008-427)

CONTRACT AMENDMENTS AND REVISIONS

33. (1) No amendment or revision to a contract shall be made unless the amendment is in the best interest of the City.

(2) No amendment that changes the price of a contract shall be agreed to without a corresponding change in requirement or scope of work.

(3) Amendments to contracts are subject to the identification and availability of sufficient funds in appropriate accounts within Council approved Departmental estimates including authorized revisions. (2014-443)

(4) Directors and Supply Services may authorize amendments to contracts provided that the total amended value of the contract is within the approval authority of the Director.

(5) General Manager approval is required for amendments to contracts where the total amended value of the procurement reaches a General Manager approval threshold. (2004-565, 2017-362)

EXECUTION AND CUSTODY OF DOCUMENTS

34. (1) Directors are authorized to execute formal agreements in the name of the City of Ottawa for which the award was made by delegated authority.

(2) Supply Services shall have the authority to execute Purchase Orders issued in accordance with these provisions.

(3) Supply Services shall be responsible for the safeguarding of original purchasing and contract documentation for the contracting of goods, services or construction for which the award is made by delegated authority.

TERM OF COUNCIL

35. Where a contract may extend beyond the term of the Council, the contract shall contain provisions to minimize the financial liability of the City should the subsequent Council not approve sufficient funds to complete the contract and the contract must be terminated by the City.

CO-OPERATIVE PURCHASING

36. (1) The City may participate with other government agencies or public authorities in Co-operative Purchasing where it is in the best interests of the City to do so.

(2) The policies of the government agencies or public authorities calling the co-operative tender are to be the accepted policy for that particular tender.

SUPPLIER PERFORMANCE

37. (1) The Director shall document evidence and advise Supply Services in writing where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions or for Health and Safety violations.

(2) The General Manager, Innovative Client Services Department may, in consultation with the City Solicitor, (2011-355, 2017-362, 2021-26) prohibit an unsatisfactory supplier from bidding on future contracts. (2004-565)

(3) For the purposes of this Section, the term “supplier” may mean a supplier of goods or services and any principal, director or officer of that supplier, bidding directly for City contracts, or indirectly through another legal entity. (2011-355)

(4) Where applicable, Supply Services may include Vendor Performance Scores in the basis of selection for Request for Quotations, Request for Tenders, Request for Proposals, Request for Standing Offers and Request for Qualifications. (2020-144)

RECEIPT OF GOODS

38. (1) The Director shall,
(a) arrange for the prompt inspection of goods on receipt to confirm conformance with the terms of the contract, and
(b) inform Supply Services of discrepancies immediately.

(2) Supply Services shall coordinate an appropriate course of action with the Director for any non-performance or discrepancies.

REPORTING TO COUNCIL

39. (1) The Chief Procurement Officer shall submit to Council an information report semi-annually containing the details relevant to the exercise of delegated authority for all contracts awarded by Directors exceeding $25,000 and Supply Services shall certify in the report that the awards are in compliance with the Procurement By-law. (2014-443, 2017-362, 2021-26)

(2) This semi-annual information report shall identify all contracts for Consulting Services and Professional Services for Follow-on Contracts and for Amendments. (2014-443)

(3) For all contracts for Consulting Services and Professional Services, this semi-annual information report shall identify the reason for the outsourcing of the service in accordance with the following categories by use of the identifying letter:
(a) workload related or lack of internal resources by a “W”;
(b) need for specialized expertise by an “E”;
(c) need for independent third party oversight by an “I”;
(d) regulatory requirement by an “R”;
(e) proprietary service or unique market position by a “P”; and
(f) Business Model Required Outsourcing by an “O”. (2014-443)

(4) In addition to the information required by subsections (2) and (3), the final semi-annual information report of each calendar year shall include,
(a) [REPEALED – 2014-443]
(b) payments with a cumulative value greater than $25,000 made without reference to a purchase order including confirmation of compliance with the Procurement By-law or steps to be taken to ensure future compliance. (2007-475, 2014-443, 2021-26)

ACCESS TO INFORMATION

40. The disclosure of information received relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

SURPLUS STOCK

41. (1) Directors shall submit to Supply Services reports of furniture, vehicles, equipment, stocks of all supplies, and other goods and material, which are no longer, used or which have become obsolete, worn out, or incapable of being used.

(2) Supply Services shall have the authority to transfer furniture, vehicles, equipment, surplus stock, and other goods and material from one Department to other Departments (2010-291).

(3) Supply Services shall have the authority to sell or dispose of all furniture, vehicles, equipment, surplus stock, supplies, or other goods and material which have become unsuitable for use by the City or to exchange or trade the same for new furniture, vehicles, equipment, surplus stock, supplies, or other goods and material.

(4) Sale of surplus furniture, vehicles, equipment, stock, supplies and other goods and material shall be made to the highest responsive bidder and the sale shall be made in accordance with the provisions of this by-law where applicable.

(5) Fleet Services shall have the authority to dispose of all inventoried items (e.g. parts) which have become unsuitable for use by the City or to exchange or trade the same for new inventoried items. (2020-144, 2021-26)

CONFLICT OF INTEREST

42. No person shall provide Consulting Services or Professional Services to both the City and a private sector developer on the same or related project. (2008-332)

STRATEGIC SOURCING

43. (1) The City may consider procuring goods and services using e-auction or reverse auction bidding strategies in situations where,
(a) the goods or services are standard commodity items which can be clearly identified;
(b) a strong competitive vendor base exists;
(c) vendors can be invited initially to participate through a transparent process such as the internet and be prequalified; and
(d) on-line training is available to all participants in advance of the actual event. (2008-427)

(2) Where the possibility of a Best and Final Offer (BAFO) phase has been introduced in the procurement solicitation document, the City may invite two or more of the highest rated short-listed firms to take part in the BAFO phase where each firm will be given the opportunity to improve on their initial bid or proposal.

SUBSTANTIVE COMPLIANCE

44. Supply Services is authorized to include a clause in competitive bid solicitations permitting the award of a contract to a low bidder where, in the sole opinion of Supply Services and the Director, although the specifications are not technically met, the vendor response is substantively compliant or the non-compliance of the response is immaterial to meeting the performance outcome.

VENDOR INITIATIVE

45. (1) After the procurement process is complete and a Contract has been awarded, the City will permit the successful vendor to propose operational or strategic improvements that result in cost savings which cost savings do not, in the opinion of the Director, have a negative impact on service delivery.

(2) Approval of an operational or strategic improvement is conditional upon the vendor quantifying the cost savings and agreeing to share the cost saving equally with the City.

(3) Any approval pursuant to subsections (1) and (2) will be recorded in the contract file and a revised purchase order will be prepared. (2008-427)

COMPREHENSIVE COMPLAINTS PROCESS

46. (1) The Chief Procurement Officer and/or the City's contact person identified in a procurement process will be the only official points of contact for a complaint.

(2) Bidders shall not contact either elected representatives or other staff regarding the complaint when the comprehensive complaints process is engaged.

(3) The City's Comprehensive Complaints Process consists of four phases as follows:

(a) Phase One: Mandatory Bidder Debriefing:

(i) Within five business days from the date upon which a bidder is informed that they have not been selected as the winning bidder, an unsuccessful bidder has the right to submit a written request for a formal debriefing from the contract authority responsible for the procurement at issue.

(ii) The City commits to providing a formal debriefing within five business days of having received such a request.

(iii) The purpose of the mandatory debriefing is to provide an unsuccessful bidder with an opportunity to learn why their bid was not selected for contract award.

(iv) If the bidder remains dissatisfied after the debriefing, the bidder has an additional ten business days to prepare and file a formal complaint.

(v) The City will not consider a formal complaint from an unsuccessful bidder if they have not first sought and attended a bidder debriefing.

(b) Phase Two: Preliminary Screening:

(i) A formal complaint must be made in writing and addressed to the Chief Procurement Officer.

(ii) The complaint should contain the identity of the complainant and the procurement process at issue as well as a clear and detailed statement of the legal and/or factual grounds upon which the complaint is based.

(iii) The complaint should also include, as attachments, any information or documents relevant to the complaint that are in the bidder's possession.

(iv) The formal complaint is an unsuccessful bidder's sole

opportunity to present their case, and should therefore be drafted accordingly.

(v) Within ten business days of having received a formal complaint, the Chief Procurement Officer will determine whether or not it discloses a reasonable indication that the procurement was not carried out in accordance with the City's procurement policies and/or the terms of the procurement process. (2014-443)

(vi) Unless it will undermine the City's best interests, final approval and the awarding of the contract shall be postponed pending the outcome of the complaint process. This suspension may be set aside, and final approval for the awarding of a contract may be given, at any time in the complaints process if it is in the City's best interests to do so.

(vii) If the Chief Procurement Officer concludes that the complaint does not disclose credible information to indicate that a breach of the terms of the procurement process or City policies has occurred, no further review of the complaint will take place and the contract shall be awarded in accordance with this By-law.

(viii) If the complaint is found to disclose a reasonable indication that the procurement was not carried out in accordance with the City's policies or the terms of the procurement process, the Chief Procurement Officer will take such necessary action to bring the solicitation back into compliance, which may include the cancellation of the solicitation, or the suspension or cancellation of the bid award. If the issue cannot be resolved appropriately, the Chief Procurement Officer will then refer the matter to a Review Panel, as provided in clause (c), "Phase Three". (2014-443).

(c) Phase Three: Formal Review:

(i) Where the Chief Procurement Officer has received a complaint that discloses a reasonable indication that the procurement at issue was not carried out in accordance with the City's procurement policies and/or the terms of the procurement process, it is to be considered by a Review Panel comprised of the Chief Procurement Officer, the City Solicitor (or a designated lawyer from the Legal Services), a representative from the Auditor General's office and the Fairness Commissioner if applicable. (2021-26)

(ii) The Review Panel after considering the complaint will provide a report to the Finance and Economic Development Committee setting out its recommendation for how the complaint should be dealt with. (2014-443)

(iii) The Review Panel report to the Committee will include a description of the procurement process at issue and an overview of the complaint received from the unsuccessful bidder. The panel report will recommend a specific course of action including, where appropriate, an explanation for why that course of action is recommended in response to the complaint.

(iv) The report is to be submitted to the Committee within twenty business days from the date upon which the Chief Procurement Officer referred the complaint to the Review Panel.

(d) Phase Four: Role of Finance and Economic Development Committee:

(i) The Finance and Economic Development Committee is to consider the report at the next regularly scheduled meeting. (2014-443)

(ii) The Committee will hear any delegations at the meeting in the standard manner, including the unsuccessful bidder who filed the formal complaint**.**

(iii) The Committee will either endorse the course of action recommended by the Review Panel or adopt an alternative course of action that it considers appropriate under the circumstances and is consistent with the terms of the solicitation and/or the City's procurement policies. The Committee's decision is final and it will not conduct a second separate review of the complaint. (2010-291)

LITIGATION EXCLUSION PROVISION

47. (1) The City, acting through the Chief Procurement Officer in consultation with the City Solicitor, may in its absolute discretion after considering the criteria outlined in subsection (2), reject a quotation, tender, or proposal submitted by a bidder if the City is engaged in legal action against the bidder, or, if the bidder or any officer or director of the bidder is engaged, either directly or indirectly through a corporation or personally, in a legal action against the City, its elected representatives, appointed officers, or employees, in relation to:

(a) any other related contract or services; or

(b) any matter arising from the City's exercise of its powers, duties, or functions. (2014-443, 2017-362, 2021-26)

(2) In determining whether or not to reject a quotation, tender or proposal under this clause, the Chief Procurement Officer and the City Solicitor will consider; (2017-362, 2021-26)

(a) whether the litigation is likely to adversely affect the bidder's ability to work with the City, its consultants and representatives; or,

(b) whether the City's experience with the bidder indicates that the City

is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the bidder; or,

(c) whether the bidder has been convicted of a criminal act against the City or one of its local boards or corporations; or,

(d) whether the bidder has failed to satisfy an outstanding debt to the City or one of its local boards or corporations; or,

(e) there are reasonable grounds to believe it would not be in the best interests of the City to enter into a contract with the bidder.

(3) Supply Services is to advise Council by way of a memorandum when the Chief Procurement Officer, in consultation with the City Solicitor, intends to exercise his or her discretion to reject a quotation, tender, or proposal in accordance with subsection (1). (2014-443, 2017-362, 2021-26)

ENACTED AND PASSED in an open Board Meeting this 11th day of December, 2000.

_____ _____

CLERK CHAIR

SCHEDULE "A"

No.	IRREGULARITY	RESPONSE
1.	Late Bids	Automatic Rejection, not read publicly, returned unopened to the bidder.
2.	Unsealed envelopes	Automatic Rejection, not read publicly, returned unopened to the bidder.
3.	**Financial Security - execution** a. No bid deposit, cheque not certified, or not an original financial security (e.g. a photocopy or a facsimile of a financial security).	Automatic Rejection
	b. Insufficient financial security	Automatic Rejection, unless in the opinion of Supply Services, the insufficiency in the financial security is trivial or insignificant.
	c. Signature and/or corporate seal ***of contractor***, or ***of bonding company,*** or both, are missing from bid bond.	A Bid bond must be executed (signed) by both the Principal (contractor) and surety (bonding company) to be valid. If **either** signature is missing, the response is automatic rejection. If one or both corporate seals are missing, the bond is still considered to be valid, and no additional action is required.
4.	**Bid Document – execution** a. Bids not executed in non-erasable medium. Electronic signatures are acceptable. (2014-443)	Automatic Rejection
	b. Bid document missing signature of authorized representative, whether corporate seal affixed, or not.	Automatic Rejection
	c. Bid documents in which all addenda issued have not been acknowledged.	Automatic Rejection, unless in the opinion of Supply Services, the addenda do not significantly impact the bid, in which case the bidder will be given 48 hours to formally acknowledge the addenda, with no change permitted to the original financial bid. (2014-443)
5.	**Incomplete Bids** (partial bids, all required items not bid)	Automatic Rejection, unless in the opinion of Supply Services, the nature of the missing information does not impact the ability of the City to conduct a fair, competitive evaluation. (2014-443)

No.	IRREGULARITY	RESPONSE
6.	**Qualified Bids** (bids qualified or restricted by a written statement, whether within the form of tender or included as an attachment)	Automatic Rejection, unless in the opinion of Supply Services, the qualification or restriction is trivial or insignificant. (2014-443)
7.	Bids received on documents other than those provided by the City.	Automatic Rejection, unless in the opinion of Supply Services, the intention of the bidder is clear, and the bid submission details do not deviate in any material manner from those provided by the City. (2014-443)
8.	Bids containing clerical or mathematical errors. a. Uninitialled changes to the bid document which are in the opinion of Supply Services, trivial in nature. (2014-443)	After official notification from Supply Services, bidder has 48 hours to rectify the situation and initial any changes. (2014-443)
	b. Uninitialled changes to the unit prices in the price schedule, and the contract totals are consistent with the price as amended. (see "e")	After official notification from Supply Services, bidder has 48 hours to initial the changes. (2014-443)
	c. Other mathematical errors which are not consistent with the unit prices.	After official notification from Supply Services, bidder has 48 hours to rectify the situation and initial any changes. (2014-443)
	d. Extension error, based on quantity provided in bid document, and unit rate provided by bidder.	Mathematical error corrected by Supply Services, bidder has 48 hours to acknowledge and initial any changes. (2014-443) In cases where the total extended price can be confirmed by Supply Services with reasonable certainty, in comparison to other bid prices and historical experience, the unit rate will be corrected by Supply Services. Bidder has 48 hours to accept and initial any changes. (2014-443)
	e. Uninitialled changes to the unit prices in the price schedule, and the contract totals are not consistent with the price as amended. (see "b")	Automatic Rejection
9.	**Mistakes in Tendering** On the application of the bidder, and the clear demonstration of an error in the tender, or in the bidder's calculation sheets.	Following consultation with the bidder and the Ottawa Construction Association (where applicable), Supply Services may allow the bidder to withdraw the bid, in writing, without financial penalty. (2014-443)

No.	IRREGULARITY	RESPONSE
10.	**Other Irregularities**	Supply Services shall have authority to waive irregularities which are considered to be trivial or insignificant. (2014-443)
11.	**Any Irregularity**	Despite any provisions herein contained, Ottawa City Council may waive any irregularity, where Council, in its sole opinion, considers it to be in the best interests of the City of Ottawa.

(2006-276)